

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Bank of America,)	Civil Action No. 3:16-1231-MBS
)	
Plaintiff,)	
)	
v.)	
)	ORDER AND OPINION
Elois C. Baxter,)	
)	
Defendant.)	

Elois C. Baxter (“Defendant”), proceeding *pro se*, filed a Notice of Removal that purports to remove a foreclosure action originally filed as Case No. 2016-CP-400-1620 in the Court of Common Pleas in Richland County, South Carolina. ECF Nos. 1 at 1; 1-1.

I. FACTUAL AND PROCEDURAL BACKGROUND

On March 14, 2016, Bank of America (“Plaintiff”) filed a Lis Pendens, Summons, and Complaint for Foreclosure against Defendant Elois C. Baxter. *See* ECF No. 1-1. Plaintiff served Defendant on March 17, 2016. *See id.* This foreclosure action is for property located at 204 Glen Knoll Drive, Columbia, SC 29229. *See id.* On April 21, 2016, Defendant filed the instant Notice of Removal to move the case “to this court for Lack of Subject Matter Jurisdiction pursuant to Federal Rule of Civil Procedure 12b(1).” ECF No. 1 at 1.

In accordance with 28 U.S.C. § 636(b) (2012) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for a Report and Recommendation. The Magistrate Judge issued a Report and Recommendation on April 22, 2016. ECF No. 7. The Magistrate Judge found that Defendant did not identify a viable basis for jurisdiction because both

federal question jurisdiction and diversity of citizenship jurisdiction are improper. *Id.* Accordingly, the Magistrate Judge recommended that the case should be remanded to the state court. *Id.* Defendant filed an objection to the Report and Recommendation on May 4, 2016. ECF No. 11. In her objection, Defendant alleges, *inter alia*, that “the State Court lacks Subject Matter Jurisdiction [] because the Defendant ELOIS MAE CORBETT-BAXTER is an U.S. Citizen which is property of the Federal Government.” *Id.* at 1.

On May 6, 2016, Plaintiff filed a Motion to Remand arguing the same findings as the Magistrate Judge. ECF No. 12. On May 23, 2016, Defendant filed a Response in Opposition to Plaintiff’s Motion to Remand. ECF No. 13. That same day, Plaintiff filed a Reply to Defendant’s Response in Opposition to Plaintiff’s Motion to Remand. ECF No. 14. Plaintiff’s Reply brief argues that Defendant’s filings are “sovereign citizen” type pleadings, which are common in foreclosure actions and fail to “offer any justification or legally cognizant argument for jurisdiction of this case.” *Id.* at 2.

II. DISCUSSION

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.*

The court is charged with making a *de novo* review of any portions of the Report and Recommendation to which a specific objection is made. *Id.* The district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court

to a specific error in the Magistrate Judge's proposed findings and recommendations. *Orpiano v. Johnson*, 687 F.2d 44, 47-48 (4th Cir. 1982). Here, neither Defendant's objection nor Defendant's Response in Opposition to Plaintiff's Motion to Remand rebut the Magistrate Judge's conclusion that the case should be remanded.

The court adopts the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. Plaintiff's Motion to Remand is **GRANTED** and the case is remanded to the Court of Common Pleas of Richland County, South Carolina for lack of subject matter jurisdiction.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

August 3, 2016